

Resolution #07-5

Resolution of the Fort Ord Reuse)
Authority Board amending the)
Fort Ord Reuse Authority Basewide)
Development Fee Policy to create)
parity with this fee and the FORA)
Community Facilities District fee.)

THIS RESOLUTION is adopted with reference to the following facts and circumstances:

- A. Government Code section 67679(e) authorizes the Fort Ord Reuse Authority (“FORA”) Board of Directors (“Board”) to levy development fees on a development project within the area of the base in compliance with Government Code section 66000, *et seq.* The section stipulates that “No local agency shall issue any building permit for any development within the area of the former Fort Ord until the Board has certified that all development fees have been paid.”
- B. The FORA Board adopted Resolution 99-1 to establish Developer Fees for all of the former Fort Ord area primarily to pay for basewide obligations intended to mitigate the costs associated with the impact of development of the Fort Ord territory. The basewide public facilities are identified in the Base Reuse Plan and the Public Facilities Improvement Plan and are annually approved by the Board as part of the Board’s adopted Capital Improvement Plan (“CIP”), in particular the transportation, habitat management and other impacts caused by development as identified in the Final Environmental Impact Report, adopted by this Board on June 13, 1997.
- C. In 2002, the FORA Board adopted a Community Facilities District (“CFD”) under State Law that refined the developer fees for selected areas of the former Fort Ord, and amended the Community Facilities District in order to provide a fee structure that would encourage and benefit the development of affordable and workforce housing.
- D. The purpose of this resolution is to amend Resolution 99-1 in order to create parity between the development fees charged within the CFD and non-CFD areas. The objective of this change is to achieve fair and uniform treatment of persons and entities paying development fees and to index non-CFD fees in the same manner as the CFD fees.
- E. Section 6.01.010 of the Master Resolution provides that all fees, penalties, refunds, reimbursements and charges of any kind by FORA may be adopted by resolution and amended by the Board. In addition, FORA has entered into separate Implementation Agreements with each of its member land use jurisdictions. Those Agreements

require development projects to pay their fair share of FORA'S costs to mitigate development impacts. The FORA Board has approved further agreements with individual jurisdictions and/or their developers to carry out the Implementation Agreements and the other authoritative documents cited in this Resolution.

- F. The Board's annually approved CIP lists each project for which the fee is to be used and accompanying text describing the need for the project. The development fees included in Table 1 have been studied extensively by FORA during the preparation of its annual CIP, adopted Reuse Plan and EIR and other business and financing plans commissioned by the Board. The amount of the fees are proportional to the burdens created by the developments to which the fees will be assessed. There is a reasonable relationship between the need for the public projects included in the CIP and the type of development project on which the development fee is imposed, There is also a reasonable relationship between the amount of the development fee and the cost of the public projects attributable to the development on which the fee is imposed.
- G. FORA will conform with Government Code section 66001 which requires FORA to do the following before adopting or amending a fee:
1. Account for and expend the fees.
 2. For the fifth fiscal year following the first deposit into the account or fund, and every five years thereafter, make all of the following findings with respect to that portion of the account or fund remaining unexpended, whether committed or uncommitted:
 - i. Identify the purpose of the fee (as described in "E." above).
 - ii. Identify all sources and amounts of funding anticipated to complete financing in incomplete improvements listed in the FORA CIP.
 - iii. Designate the approximate dates on which the funding necessary to complete the project is expected to be deposited into the appropriate account or fund serving the FORA CIP.
- H. The known projects for which this fee is intended, but not limited to, are: Bay View Park (previously known as Brostrom Park), Sunbay Apartment complex, portions of California State University Monterey Bay, Abrams "B", Preston Park, and certain Public Benefit Conveyances in the City of Marina as identified in the attached map of non-CFD areas of the base.
- I. Any fee so adopted shall be effective no sooner than 60 days following the final action on the adoption.

NOW THEREFORE the Board hereby resolves as follows:

1. That the Fort Ord Reuse Authority shall amend its Basewide development fee for the portions of the former Fort Ord not included in the CFD in the amounts listed for each type of development in the attached fee schedule.

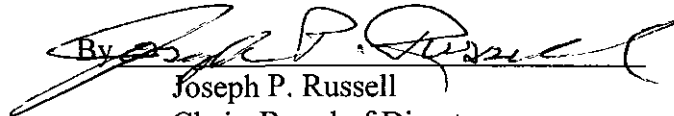
2. That this Basewide Development fee schedule shall be the same as the CFD fee schedule and shall be fixed to the CFD fee rate and indexed in the same manner on July 1st of every year as evidenced in the attached Table 1 -- Taxable Property Classifications and Maximum Development Fee Rates.
3. These amended fees shall become effective on April 10, 2007
4. Such funds shall be deposited and maintained in appropriate trust accounts and managed according to the Board's adopted Capital Improvement Program budget as provided for in section F of this resolution.

Upon motion by Mayor Rubio, seconded by Mayor McCloud, the foregoing resolution was passed on this 9th day of February, 2007, by the following vote:

AYES:	10	Directors Russell, Mettee-McCutchon, Della Sala, Davis, Mancini, McCloud, Wilmot, Calcagno, Pendergrass, and Rubio
NOES:	-0-	
ABSTENTIONS:	-0-	
ABSENT:	3	Directors Smith, Potter, and Barnes

I, Mayor Joe Russell, Chair of the Board of Directors of the Fort Ord Reuse Authority in the County of Monterey, State of California, do hereby certify that the foregoing is a true copy of an original order of the said Board of Directors duly made and entered under Item 9d, page 4, of the board meeting minutes of February 9, 2007 thereof, which are kept in the Minute Book resident in the offices of the Fort Ord Reuse Authority.

DATED 2/14/07

By 
Joseph P. Russell
Chair, Board of Directors
Fort Ord Reuse Authority

The Maximum Development Fee Rates for each classification of Property, are shown in Table 1, below.

**TABLE 1 – PROPERTY CLASSIFICATIONS AND
MAXIMUM DEVELOPMENT FEE RATES**
(Figures as of April 10, 2007)

PROPERTY CLASSIFICATION	Maximum Development Fee Rates (One –time Development Fee Payments)
Undeveloped Property	\$ - 0 -
Developed Property	
New Residential	\$41,106 / Dwelling Unit
Existing Residential	\$12,360 / Dwelling Unit
Office	\$5,387 / Acre
Industrial	\$5,387 / Acre
Retail	\$111,102 / Acre
Hotel	\$9,167 / Room

Increase in the Maximum Development fee Rates

On each July 1, the maximum development fee rates shown in Table 1 shall be increased by an amount equal to the lesser of (1) five percent (5%) or (2) the percentage change since the immediately preceding Fiscal Year in the Engineering News Record's Construction Cost Index (CCI) applicable to the area in which the District is located (CCI for the period 1/05-1/06 was 5%).

Amendment to the Maximum Development fees

The following Exhibit details certain exceptions to the fees delineated in Table 1 for the purpose of encouraging affordable and workforce housing.

EXHIBIT A TO MAXIMUM DEVELOPMENT FEE RATES

AMMENDMENT OF THE DEVELOPER FEE RATE FOR THE FORT ORD REUSE AUTHORITY

The Fort Ord Reuse Authority ("FORA") Board adopted Resolution 05-15 and Ordinance 05-01 on October 14, 2005, resulting in the Rate and Method of Apportionment of Development fees for the Fort Ord Reuse Authority Basewide Community Facilities District being altered by adding the following to Section IV of the Rate and Method of Apportionment of Development fees under the heading "Exceptions." This language is now also applied to the parcels referenced on the attached map.

Affordable Housing/Below Market Housing:

A three tier reduced Maximum Development Fee¹ shall apply as follows below for New Residential Property that includes Below Market Housing. For the purposes of this subsection, the following definitions of Affordable Housing and Below Market Housing apply to all three tiers. "Affordable Housing" refers to dwelling units on New Residential Property that have sales prices or rents restricted to rates that are affordable to households to very low, low, and moderate income levels, which includes incomes up to 120 percent of the Monterey County median household income for a period consistent with California Health and Safety Code Redevelopment Law ("State Law") as determined by the FORA Executive Officer. "Below Market Housing" refers to dwelling units on New Residential Property that have sales prices or rents restricted to rates that are affordable to households with incomes up to 180 percent of the Monterey County median household income. It is the policy of the FORA Board to have the Below Market Housing restrictions continue for a minimum of 20 years from first occupancy of that project. During this period, sales, resales, and rentals must continue to meet the Below Market Housing restrictions. These restrictions will be enforced by FORA through the term of the FORA Development Fee and thereafter will be enforced by adopted covenants securing the reduced fee.

Tier 1: 100% of the dwelling units are Below Market Housing containing at least 20% of the dwelling units as Affordable Housing with deed restrictions on where individuals can work. If New Residential² property (a) includes 100 percent

¹ "Maximum Development Fee" means the fee identified for each class of Property in Table 1 hereof.

² "New Residential" means Property that is designated for low density, medium density, or high density housing uses as those uses are defined in the Fort Ord Base Reuse Plan, Table 3.4-1, and that will not include the rehabilitation or renovation of housing existing on the former Fort Ord as of September 1, 2001. The FORA Executive Officer shall defer to an appropriate official of the local jurisdiction with development approval authority over the Property for classification of the Property as either Existing Residential or New Residential, as long as that definition is reflective of definitions for rehabilitated or renovated housing commonly used among local jurisdictions.

Below Market Housing and (b) at least 20 percent of the dwelling units are restricted to households that earn up to 120 percent of the Monterey County median household income which includes households earning at the very low, low, and moderate income levels as defined in State Law, and (c) 100 percent of the dwelling units have deed restrictions that limit sale or renting to only those individuals that work within the boundaries of the former Fort Ord and are offered exclusively as part of an ongoing employer-based housing program to provide Below Market Housing for employees of that employer, then the Maximum Development Fee shall be levied at 1/20th or five percent of the New Residential Maximum Development Fee rate on all dwelling units. As long as the specified ongoing employer-based housing program continues in effect, the units may be offered on an interim basis to other certified employees of employers located on the former Fort Ord. Units cannot be rented or resold in the private market at market rates during the life of the housing program. When employees or employees of qualified employers leave their jobs on the former Fort Ord, those units revert to employees of the original on-base employer that created the program.

Tier 2: 100% of the dwelling units are Below Market Housing containing at least 75% of the dwelling units as Affordable Housing, with NO deed restrictions on where individuals can work. If New Residential property (a) includes 100 percent Below Market Housing, and (b) at least 75 percent of the dwelling units are restricted to households that earn up to 120 percent of the Monterey County median household income which includes households earning at the very low, low and moderate income levels as defined in State Law, but (c) there is no requirement that household members work within the boundaries of the former Fort Ord, then the Maximum Development Fee shall be levied at the Existing Residential³ Maximum Development Fee rate on all dwelling units.

Tier 3: Inclusion of market rate housing. If New Residential property includes market rate housing then the Maximum Development Fee shall be levied at the Existing Residential Maximum Development Fee rate only for those Affordable Housing dwelling units that are in excess of the Affordable dwelling units required to meet the requirements of (a) California Law and (b) any adopted affordable housing policy of the local agency within which the Property is located. All other Below Market Housing, Affordable Housing and market-rate dwelling units shall pay the Maximum Development Fee rate for New Residential property.

³ "Existing Residential" means Property that is designated for low density, medium density, or high density housing uses as those uses are defined in the Fort Ord Base Reuse Plan, Table 3.4-1, and that will include the rehabilitation or renovation of housing located on the former Fort Ord as delineated on the attached map. The FORA Executive Officer shall defer to an appropriate official of local jurisdiction with development approval authority over the Property for classification of the Property as either Existing Residential or New Residential, as long as that definition is reflective of definitions for rehabilitated or renovated housing commonly used among local jurisdictions.

Development Fee Credit for Dedicated Public Facilities Eligible for funding by the FORA Development Fee:

If an owner of property subject to the Development Fee⁴ dedicates a public facility eligible for funding by the Development Fee to a public agency, and if the public agency accepts the dedicated facility prior to the levy of the Development Fee on that property, then the Development Fee levied on that property shall be reduced by the value of the dedicated public facility. The value of the dedicated public facility for the purposes of calculating the reduction in the Development Fee shall be determined by the FORA Executive Officer, and shall be the estimated cost of the FORA portion of the public facility cost represented in the most recent FORA Capital Improvement Program.

⁴ “property subject to the development fee” means any Assessor’s Parcel that is not Exempt Property. This term includes Developed Property and Undeveloped Property.

Parcels lying outside the FORA Community Facilities District and subject to the FORA Development Fee

